

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Pacific Gas  
and Electric Company for Commission Approval  
of Two Irrevocable License Agreements to Permit  
Use of Utility Support Structures, Optical Fiber  
and Equipment and Equipment Sites to IP  
Networks, Inc. (U 39E)

Application 01-12-033  
(Filed December 21, 2001)

**ADMINISTRATIVE LAW JUDGE'S RULING GRANTING MOTION OF PACIFIC  
GAS AND ELECTRIC COMPANY (PG&E) AND IP NETWORKS, INC. (IPN),  
FOR AUTHORITY TO FILE UNDER SEAL AND TO MAINTAIN THE  
CONFIDENTIALITY OF CERTAIN INFORMATION CONTAINED IN  
MASTER LICENSE AND IRU AGREEMENTS**

Pacific Gas & Electric Company (PG&E) and IP Networks, Inc. (IPN) have filed a motion that seeks an order permitting PG&E to file under seal and to maintain the confidentiality of certain information in the proposed Master License and IRU Agreements, which are attached as Appendices A and B, respectively, to this application.

As part of the application, PG&E and IPN have submitted under seal a Master License and IRU Agreement for Bay Area Loop (Appendix A) and a Master License and IRU Agreement for Optical Fiber Local Loop Installations (Appendix B) (the agreements). PG&E and IPN have also filed redacted public versions of the agreements.

PG&E and IPN state that the agreements contain fee arrangement information that is highly confidential and commercially sensitive. PG&E and IPN seek to keep confidential only the portions of the agreement that would give

competing providers information about the economic and financial benefits negotiated between them and the economics of IPN. These portions generally address the fees to be paid by IPN, the term of the agreements, and costs and expenses.

Commission decisions on confidentiality reflect an attempt to balance the market's need for information against a utility or third party's need for confidentiality in its business operations and strategy. In applying this balancing test, the Commission has consistently upheld the need for confidentiality in cases involving fiber optical lease agreements between competitive communications companies and electric utilities. (*See, e.g.*, Application 99-09-036, ALJ Ruling issued November 16, 1999.)

The motion states grounds to maintain the confidentiality of the redacted information under Public Utilities Code Section 583 and General Order 66-C. The motion is unopposed, and no hearing on the motion is required.

**IT IS RULED** that:

1. The motion of Pacific Gas & Electric Company (PG&E) and IP Networks, Inc. (IPN) for authority to file under seal and to maintain the confidentiality of certain information contained in the agreements, attached as Appendices A and B to this application, is granted, with the following exceptions:

- a. With respect to Exhibit A to this application, e.g., the Master License and IRU Agreement for the Bay Area Loop, information regarding the number of dark fibers and wavelengths to be used by PG&E and IPN may be disclosed;
- b. The diagram of the Bay Area Loop attached to Exhibit A may be disclosed.

PG& E has agreed to the above disclosures.

2. PG&E shall file and serve an amended Exhibit A, in which the information included in items a and b above is not redacted, by no later than February 19, 2002.

3. The redacted portion of the agreements, which have been submitted under seal, shall remain under seal for a period of two years from the date of this ruling, and during that period shall not be made accessible or disclosed to anyone other than Commission staff except: (1) on further order or ruling of the Commission, the Assigned Commissioner, the assigned Administrative Law Judge (ALJ), the ALJ then designated as Law and Motion Judge, or the Chief ALJ, or (2) as may be required by law, or (3) with the written permission of PG&E and IPN.

4. If PG&E and/or IPN believe that continued protection of this information is needed after two years, they may file a motion which states the justification for further withholding this information from public inspection or such other relief as the Commission Rules<sup>1</sup> may then provide. The motion shall be filed no later than 30 days before the expiration of this ruling.

Dated February 5, 2002, at San Francisco, California.

/s/MYRA J. PRESTIDGE

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Myra J. Prestidge

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<sup>1</sup> All Rule references are to the Commission Rules of Practice and Procedure.

A.01-12-033 TOM/eap

Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Granting Motion of Pacific Gas and Electric Company (PG&E) and IP Networks, Inc. (IPN), for Authority to File Under Seal and to Maintain the Confidentiality of Certain Information Contained in Master License and IRU Agreements on all parties of record in this proceeding or their attorneys of record.

Dated February 5, 2002, at San Francisco, California.

/s/ ERLINDA PULMANO

Erlinda Pulmano

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.